

Berard *received* **\$129,314** in tax-free bond interest from 2003-2009 (pursuant to the collateral investment strategy). This is clearly another recovery, ignored by the government who claimed the collateralized investment was the cover-up scheme. ***It must be calculated in the offset, as such.*** Berard's second Northern Trust bank 2005 *Extension of Credit* document (*Bates stamp: TNTC000209*) was received in the week-7 subpoena. It confirmed Berard's knowledge of the underlying collateralized investment.

- Upon information and belief, Berard also signed the same 1% deal that Nolan received, *supra*, during the pendency of his 2012-2017 involvement with Jowdy in Mexico. In the Nolan calculation, this was valued at **\$3,250,000**.

Berard *recovered* approximately **\$300,000-plus** from Northern Trust Bank (*Tr.3042*) – *exceeding* the amount of funds – traced to his capital contribution – that was loaned to Jowdy. Berard fully recovered his funds; alleged as fraudulently handled (in spite of his 2009 arbitration testimony that he authorized it in the first place, *infra*), *as such leaves Berard with no loss*.

|| Berard 2009 arbitration testimony only two months after his phone-authorized collateral seizure directly with Northern Trust Bank employees, Mascarella and Brill (*Berard, Day 5 at 76-77*):

Q. Were you aware that Mr. Kenner got a credit line against some securities or investments you had?

A [Berard]: Yes.

Q. And later on were you aware that Mr. Kenner starting lending this money to another principal in the Cabo project named Ken Jowdy?

A [Berard]: Yes.

Q. Were you aware that he had disclosed to you that he was going to lend this money at a rate of interest to benefit the investors?

A [Berard]: Yes.

Q: And later on were you aware that Mr. Kenner started lending this money to another principle in the Cabo project names Ken Jowdy?

A [Berard]: Yes.

Q: Where did you think the money that Mr. Jowdy – were you told where the money that was given Mr. Jowdy as far as the Mexican project? Was there anything you were told about that?

A [Berard]: Basically just loan him the money for the project.

- Berard has no loss in the “Hawai’i object” and cannot be deemed a victim; *see Evans* “[w]ithout an actual loss, there could be no victims”

Darryl Sydor calculation...

Darryl Sydor has \$200,000 of Hawai’i partners’ funds traceable to the Jowdy loans.

- His 2017 CSL Properties settlement agreement was clearly a sufficient offset.

Sydor *received* his 5% portion of the 4.6% CSL Properties LLC equity increase in Diamante Cabo san Lucas from the Jowdy 2017 settlement agreement worth approximately **\$471,500**, *as such leaves Sydor with no loss*.

Sydor *received* **\$249,215** in tax-free bond interest from 2004-2009 (pursuant to the collateral investment strategy). This is clearly another recovery, ignored by the government who claimed the collateralized investment was the cover-up scheme. ***It must be calculated in the offset, as such leaves Sydor with no loss.***

Sydor had no offset from Northern Trust Bank recoveries, like Rucchin, as Sydor testified that he was not aware of the collateral loss until 2-weeks before trial (6-years after the event) (*Tr.2166-67, 2191*). Sydor’s **CTE**-laden testimony was debunked by his own 2009 text messages with Kenner in real time that confirmed he received the March 2009 default letter, which he could not recall at trial even after being shown his text verifying the receipt (and matching the default letter **\$855,351.03** total – *GX-2119 at 1*), which the government knew and ignored:

6083	+19725230505 Darryl Sydor*	3/23/2009 1:59:36 AM(UTC+0)	R e a d	What funds ? And this thing says I owe 855,351.03 right now.
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Sydor also testified he could not recall talking to Northern Trust Bankers prior to his collateral seizure authorization (*Tr.2211-12*). This was also debunked with another 2009 text conversation between Sydor and Kenner the day of his phone calls with Erin [sic] Mascarella, his **Northern Trust Banker; Aaron Mascarella**: